

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	Case No. 08-9008-MC-C-HFS
)	
JOSHUA P. KLIETHERMES,)	
)	
Respondent.)	

ORDER

Petitioner, United States of America, has filed a petition to enforce IRS summonses. Essentially, petitioner seeks enforcement of summonses served on respondent, Joshua P. Kliethermes, requiring his appearance before Revenue Agent Margaret Kueffer. Agent Kueffer is conducting an investigation into respondent's assets for collection of unpaid personal taxes for 1998 and 2001, and for determining his unpaid federal income tax liabilities for 2002, 2003, 2004, 2005, 2006, and 2007. By summonses served on respondent on June 6, 2008, pursuant to 26 U.S.C. § 7602, Agent Kueffer directed respondent to appear before her on July 11, 2008, and to produce certain documents.

Respondent failed to appear, and on April 7, 2009, the court entered an order directing respondent to show cause within twenty days why the action should not be decided solely on the allegations in the petition. Respondent also failed to respond to the order to show cause.¹

Sec. 7602 confers broad authority upon the IRS to summon documents and testimony in

¹The court, by Magistrate Judge Sarah W. Hays, noted that although the order to show cause mailed to respondent by certified mail, return receipt requested was returned as unclaimed, there was no indication that the order sent by regular United States mail was not properly delivered in the normal course of postal operations.

order to ascertain tax liabilities. However, in order to obtain summary enforcement of a summons the IRS must first establish a prima facie case for enforcement. United States v. LaSalle Nat'l Bank, 437 U.S. 298, 313-14 (1978). In a declaration, Agent Kueffer has averred that the testimony and documents sought are relevant to the IRS investigation and is not presently in its possession. The court found that petitioner established a prima facie basis for enforcement of the summonses. I agree.

Accordingly, it is hereby

ORDERED that the Report and Recommendation is ADOPTED, the petition to enforce IRS summonses (ECF doc. 1) is GRANTED, and defendant is directed to comply with the summonses on a date and time agreed upon by the parties, but not later than thirty days after service of this order on respondent. It is further

ORDERED that the clerk's office mail a copy of this order by regular mail, and certified mail, return receipt requested to respondent at:

103 W. Main

Linn, Mo. 65051

/s/ Howard F. Sachs
HOWARD F. SACHS
UNITED STATES DISTRICT JUDGE

July 15, 2009

Kansas City, Missouri